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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,834	11/16/2001	Joseph Wilkinson III	Wilkinson-3	3040

7590 10/16/2003

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EXAMINER

KING, ANITA M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/990,834

Applicant(s)

WILKINSON, JOSEPH

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4-11,13-17 and 20-35 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

- 5) ☒ Claim(s) 11,13-17 and 20-35 is/are allowed.
- 6) ☒ Claim(s) 1 and 5-8 is/are rejected.
- 7) ☒ Claim(s) 4,9 and 10 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

This is the second office action for application number 09/990,834, Pipe Shoe and Method, filed on November 16, 2001.

Cancellation of Claims

Claims 2, 3, 12, 18, and 19 have been canceled per applicant's request in Paper no. 6 dated March 19, 2003.

Claim Objections

Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 4 currently depends from canceled claim 3. The examiner will assume that claim 4 is intended to depend from claim 1.

Claims 11 and 33 are objected to because of the following informalities: in claim 11, line 4, "plant" should be --plane-- and in claim 33, line 2, --the steps of-- should be inserted after "comprising". Appropriate correction is required.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1 and 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,227,406 to Shelton et al., hereinafter, Shelton. Shelton discloses a pipe shoe for supporting a pipe (1) from a structural support, the pipe shoe comprising: a generally horizontal base plate (3) capable of sliding engagement with a structural support; a left-side support plate (134 & 138) and a right-side support plate (140) each affixed to and extending generally upward from the base plate, the right-side support plate including a right side support plate port (See Fig. 4); a curved lower plate (132) affixed to and supported on both the left side support plate and the right-side support plate, the curved lower plate being configured for supporting the pipe; a curved upper plate (112) including a left-side lower end (116) and a right-side lower end (118) for positioning about the pipe; a left-side attachment member (4, 128) for attaching the left-side lower end of the upper plate to the left-side support plate; an attachment mechanism (4, 122) for securing the right-side lower end of the upper plate to the right-side support plate, the attachment mechanism including a right-bolt passing through a hole in the right-side lower end of the upper plate and the right-side support plate port, such that the curved upper plate is pulled toward the base plate to place the right-side bolt in tension when the right-side bolt is tightened; the right-side support plate being angled with respect to a plane perpendicular to a plane of the base plate; the right-side support plate being angled away from the centerline of the pipe such that tightening the right-side bolt pulls the right-side lower end of the upper plate toward a lower portion of the pipe; a left-side support plate port, a left-side bolt, and a left-side support plate hole in the left-side lower end of the upper plate; wherein the left-side support plate is

positioned radially inward of the left-side lower end of the upper plate, and the right-side support plate is positioned radially inward of the right-side lower end of the upper plate; wherein the curved lower plate is configured for planar engagement with the pipe along a circumferential length from 90° to 160°; and wherein each of the curved lower plate and curved upper plate have an arcuate interior surface with a radius substantially conforming to an exterior surface of the pipe.

Allowable Subject Matter

Claims 4, 9, and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 11, 13-17, and 20-35 are allowed.

The following is a statement of reasons for the indication of allowable subject matter: the primary reasons for the indication of the allowable subject matter of the above-mentioned claims are the limitations of the right-side support plate being angled at from 1° to 5° with respect to the plane perpendicular to the base plate, cited in claim 4 and in combination with the other elements recited in independent claim 1, which is not found in the prior art of record; front left-side and right-side support plates, rear left-side and right-side support plates, each affixed to the base plate and the curved lower plate extending axially from the front support plates to the rear support plates, included in claim 9 (also cited in independent claims 21 and 26) and in combination with the other elements recited in independent claim 1, which is not found in the prior art of record; the

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right-side support plate and the left-side support plate being angled at from 1° to 5° with respect to the plane perpendicular to the base plate, included independent claim 11 and in combination with the other elements recited in the claim, which is not found in the prior art of record; tightening the right-side bolt to pull the curved upper plate toward the base plate and place the right-side bolt in both tension and shear, included in independent claim 16 and in combination with the other element recited in the claim, which is not found in the prior art of record; and at least one of the right-side hole and the right-side port being oversized with respect to the right-side bolt to permit the right-side bolt to pass through the hole and the port, and the curved upper plate is pulled toward the base plate to place the right-side bolt in both tension and shear when the right-side bolt is tightened, included in independent claim 29 (also, cited in claim 33) and in combination with the other elements recited in the claim, which is not found in the prior art of record.

Response to Arguments

Applicant's arguments with respect to claims 1, 2, 5, 7, 8, 11, 14, 16-18, and 20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP


§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (703) 308-2162. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (703) 308-2156. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.


Anita M. King
Primary Examiner
Art Unit 3632

October 14, 2003